APPENDIX

In footnote 10 on page 49 of its brief, respondent states:

> Of the sixty-six inmates awaiting execution at Florida State Prison whose death sentences have been affirmed by the Florida Supreme Court, forty-five (68%) were involved in the commission of underlying felonies when homicides occurred. See Appendix.

To assist the Court to examine the 45 "felony-murder context" (Resp. Br. 49) cases cited by respondent from a perspective that bears meaningfully on the issues in the present case, we divide those 45 cases into 3 categories below: In the first category are those 36 of the 45 "felony-murder context" cases in which the Florida Supreme Court either found or affirmed a trial court or jury finding that the defendant intended life to be taken. In the second category, are the 8 "felony-

murder context" cases in which the Florida Supreme Court has not passed one way or the other on the question of intent. In the last category, is the one "felony-murder context" case -- petitioner's -- in which the Florida Supreme Court did not make a finding of an intent to kill and affirmed the sentence of death despite its assumption that no such finding could be made on the record before it.

I. Florida "Felony-Murder Context" Cases Involving Findings That The Defendant Intended to Take Life

Alvord v. State, 322 So. 2d 533, 540 (Fla. 1975) ("cold, calculated design to kill")

Booker v. State, 397 So. 2d 910, 917 (Fla. 1981) (defendant killed "for the purpose of avoiding arrest")

Brown v. State, 381 So. 2d 690, 695 (Fla. 1980) ("premeditated design to effect death")

Buford v. State, 403 So. 2d 943, 949 (Fla. 1981) ("premeditation")

Clark v. State, 379 So. 2d 79, 104 (Fla. 1979) ("intent to eliminate a witness")

Combs v. State, 403 So. 2d 418, 421 (Fla. 1976) ("cold, calculated and premeditated" killing)

Cooper v. State, 336 So. 2d 1133, 1140 (Fla. 1976) (defendant killed "for the purpose of avoiding arrest")

Darden v. State, 329 So. 2d 287, 288 (Fla. 1976) ("assault with intent to commit murder" against second victim in same transaction as first victim was killed)

Elledge v. State, 346 So. 2d 998, 1000-01 (Fla. 1977) (defendant killed "for the purpose of avoid-arrest")

Ford v. State, 374 So. 2d 496, 502, 503 (Fla. 1979) (same)

Foster v. State, 369 So. 2d 928 (Fla. 1979) (defendant convicted of "premeditated murder")

Francois v. State, Case No. 54,461 (Fla. opinion filed Oct. 15, 1981) (defendant was "the actual perpetrator of five premeditated murders")

Funchess v. State, 341 So. 2d 762, 763 (Fla. 1977) ("premeditated")

Goode v. State, 365 So. 2d 381, 384 (Fla. 1978) ("plan to kill")

Hall v. State, 403 So. 2d 1231, 1323 (Fla. 1981) (defendant convicted of premeditated murder)

Hargrave v. State, 366 So. 2d 1, 2, 3 (Fla. 1978) ("deliberate" taking of life)

Henry v. State, 328 So. 2d 430, 431 (Fla. 1976) ("premeditated design")

Jackson (Carl) v. State, 359 So. 2d 1190, 1194 n.3 (Fla. 1978) (defendant killed "for the purpose of avoiding arrest")

Jackson (Ronald) v. State, 366 So. 2d 752, 756 (Fla. 1978) ("intention ... to eliminate and execute the witness to the robbery")

Jacobs v. State, 396 So. 2d 1113, 1118 (Fla. 1981) (defendant killed "for the purpose of avoiding arrest")

Jent v. State, Case No. 58,744 (Fla. opinion filed Dec. 3, 1981) ("premeditated murder")

Johnson v. State, 393 So. 2d 1069, 1073 (Fla. 1981) (life taken "cooly and with calculation")

King v. State, 390 So. 2d 315 (Fla. 1980) (similar to Darden, supra)

Knight v. State, 338 So. 2d 201, 202 (Fla. 1976) (defendant killed "for the purpose of avoiding arrest")

Meeks v. State, 339 So. 2d 186, 190 (Fla. 1976) (same)

Mikenas v. State, Case No. 49, 928 (Fla., opinion filed Nov. 5, 1981) (same)

Proffitt v. State, 315 So. 2d 461, 466 (Fla. 1975) ("premeditated design")

Raulerson v. State, 358 So. 2d 828, 834 (Fla. 1978) (defendant killed "for the purpose of avoiding arrest")

Ruffin v. State, 397 So. 2d 277 (Fla. 1981) (same as Hall, supra)

Sireci v. State, 399 So. 2d 964, 971 (Fla. 1981) (defendant took life "for the purpose of avoiding arrest")

Smith v. State, 365 So. 2d 704, 708 (Fla. 1978) ("design" to take life)

Sullivan v. State, 303 So. 2d 632, 637 (Fla. 1974) (Overton, J., concurring) (defendant "fully intended to murder the victim")

Thompson v. State, 389 So. 2d 197, 198 (Fla. 1980) ("torture murder")

Vaught v. State, Case No. 52,835 (Fla., opinion filed Jan 7, 1982) (defendant took life "for the purpose of avoiding arrest")

Washington v. State, 362 So. 2d 658 662-66 (Fla. 1978) (same)

White v. State, 403 So. 2d 331, 337-38 (Fla. 1981) (same)

II. Florida "Felony-Murder Context" Cases in Which There Was No Determination One Way or the Other By the Florida Supreme Court as to Whether the Defendant Intended to Take Life

Adams v. State, 341 So. 2d 765 (Fla. 1977) (defendant was triggerman)

Aldridge v. State, 351 So. 2d 942 (Fla. 1977) (defendant was triggerman)

Armstrong v. State, 399 So. 2d 953 (Fla. 1981) (defendant was triggerman)

LeDuc v. State, 365 So. 2d 149 (Fla. 1978) (defendant was triggerman)

McCrae v. State, 395 So. 2d 137 (Fla. 1976) (defendant was triggerman)

Peek v. State, 395 So. 2d 492 (Fla. 1980) (defendant was triggerman)

Shriner v. State, 386 So. 2d 525 (Fla. 1980) (defendant was triggerman)

III. Florida "Felony-Murder Context" In Which Florida Supreme Court Assumed that an Intent to Kill Could Not Be Found On the Record

Enmund v. State, 399 So. 2d 1362, 1371 (Fla. 1981)